

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

TOM HUSSEY PHOTOGRAPHY, LLC,

Plaintiff,

v.

BDG MEDIA, INC.,

Defendant.

C.A. No. 20-404-MN

**DECLARATION OF JESSICA STUKONIS IN SUPPORT OF DEFENDANT BDG
MEDIA, INC.'S MOTION TO DISMISS OR TRANSFER**

OF COUNSEL:

Eleanor M. Lackman
Bradley J. Mullins
MITCHELL SILBERBERG & KNUPP LLP
437 Madison Ave., 25th Floor
New York, New York 10017-1028

Chad M. Shandler (#3796)
Nicole K. Pedi (#6236)
RICHARD LAYTON & FINGER
One Rodney Square
920 North King Street
Wilmington, Delaware 19801
(302) 651-7836
shandler@rlf.com
pedi@rlf.com

*Attorneys for Defendant
BDG Media, Inc.*

I, JESSICA STUKONIS, declare as follows:

1. I am Senior Counsel of Legal Affairs at BDG Media, Inc. (“BDG”). I have worked at BDG since April 2, 2018. I have personal knowledge of the following facts and, if called and sworn as a witness, could and would competently testify thereto.

2. BDG is a media company that owns and operates a number of websites on varied topics of general and special interest. One of BDG’s websites is Flavorwire.com.

3. BDG is incorporated in Delaware and is headquartered in Manhattan in New York City, New York (the “BDG Headquarters”). BDG presently has approximately 246 full-time employees working in New York, New York, with 225 such employees working out of the BDG Headquarters, and an additional 21 employees working out of a satellite office also located in New York, New York. These include writers, editors, members of BDG’s legal department, and all of BDG’s executives.

4. BDG also has smaller satellite offices in Chicago, London and Los Angeles. These offices are much smaller than the BDG Headquarters. The Los Angeles office has 13 full-time employees, the Chicago office has 5 full-time employees, and the London office has 7 full-time staffers that are employed through a professional employer organization.

5. The Article referenced in Plaintiff’s complaint in this matter, located at <https://www.flavorwire.com/164201/photo-gallery-reflection-of-time>, was published on March 23, 2011. BDG did not own Flavorwire.com in 2011. To my knowledge, Flavorwire.com was then owned by Flavorpill Productions LLC d/b/a Flavorpill Media. BDG did not acquire Flavorwire.com until approximately August 6, 2018.

6. As of December 2019, Flavorwire.com is no longer operational, although the website is still accessible. Any current employees of BDG that would have knowledge regarding

content that was posted to Flavorwire.com prior to December 2019 are located at BDG Headquarters, and the BDG freelancer currently responsible for sending out regular Flavorwire newsletters is located in Finland. Similarly, all decisions regarding general policies and procedures for posting content to BDG-owned websites are made at BDG Headquarters.

7. The writer of the Article, Caroline Stanley, was never an employee by BDG.

8. The BDG employees that could testify as to BDG's policies regarding the use of photographic content and the protection of copyrights are located in New York City. The BDG employees that could testify as to the revenue generated by any given article on Flavorwire.com, and the amount of any revenue attributable to a particular article (if any), are located in New York City.

9. BDG's internal servers are located in New York City. Documents reflecting the number of views the Article drew are located on BDG's servers in New York City. Documents related to BDG's policies regarding the selection of photographic content, and documents related to BDG's policies regarding the protection of intellectual property rights, are stored on BDG's servers in New York City.

10. Flavorwire.com is equally accessible from anywhere in the world.

11. BDG uses Google Analytics to measure traffic to BDG's websites, including to individual articles on Flavorwire.com. Based on a report generated by Google Analytics, the Article received a total of 442 unique page views since August 2018, with a reported value of \$0.00. Screenshots from that report are attached to this Declaration as Exhibit 1.

12. Google Analytics is capable of providing generalized information regarding the geographical source of web traffic to BDG's websites and individual articles. Since the Article was first posted in 2011, 0.14% of the total sessions on the Flavorwire.com website appear to

have originated in Delaware. It is not possible, however, to determine whether any of the views of the Article occurring since August 2018 originated in Delaware, as Google Analytics reports the total number of such Delaware views to be less than 1.

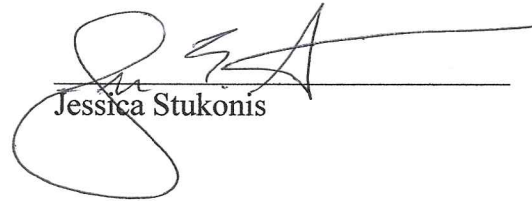
13. I and the rest of BDG's legal department work at BDG Headquarters. Having to travel to Delaware for trial, hearings, depositions, conferences and mediation would be time-consuming and disruptive for me and my legal team. It would be more convenient for me and my legal team to attend to this case if it were in New York City.

14. All BDG executives with authority to settle this dispute are also in New York City. To the extent travel to Delaware would be required, it would be disruptive and time consuming for BDG executives to do so.

15. Having to travel to Delaware for trial, hearings and depositions, would be time-consuming and disruptive for BDG employees who might serve as witnesses in this matter.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in New York, New York on this 30th day of April, 2020.



Handwritten signature of Jessica Stukonis, consisting of a large, stylized 'J' and 'S' followed by a horizontal line.

Jessica Stukonis